

United States District Court  
District of Massachusetts

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Docket No. 04-10303

**United States,**

v.

**Rashaun Scott,**

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**Proposed Jury Instruction:  
Possession of a Firearm**

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To establish a defendant's guilt on a charge of being a felon in possession of a firearm in violation of 18 U.S.C. § 922(g)(1) requires proof of the following elements: (i) the defendant is a convicted felon; (ii) who knowingly possessed a firearm; and (iii) the firearm was in or affected interstate commerce. *United States v. Carpenter*, 403 F.3d 9, 10 (1st Cir. 2005); *United States v. Liranzo*, 385 F.3d 66, 69 n.2 (1st Cir.) cert. denied, --- U.S. ---, 125 S.Ct. 637 (2004).

Possession of a firearm may be actual or constructive. Actual possession requires that the defendant have physical possession of the firearm. A person who has physical control over an object and has the intent to exercise such control is in actual possession of it. Actual possession implies control and power over the thing or object. *United States v. Carpenter*, 403 F.3d at 10.

Constructive possession is the other type of possession recognized by the law. A person who, although not in actual possession, knowingly has both the power and the intention at any given time to exercise dominion or control over an object either directly or through another person or persons, is in constructive possession of the object. Thus, constructive possession means knowledge of the location of an object combined with the ability and intention to

exercise dominion and control over it. *United States v. Carpenter*, 403 F.3d at 10.

Possession, whether actual or constructive, need not be exclusive; it may be joint or shared between or among more than one person. Possession may be proved by circumstantial evidence and the reasonable inferences drawn from that evidence. Whether such an inference is reasonable in this case depends on all of the circumstances and is for you to determine. *United States v. Lamare*, 711 F.2d 3, 5 (1st Cir. 1983).

Respectfully submitted,

Rashaun Scott,  
*By his attorney,*

/s/C. Samuel Sutter  
C. Samuel Sutter  
B.B.O. # 542496  
203 Plymouth Ave.  
Building #7  
Fall River, MA 02721  
(508) 647-8633